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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,888	12/08/2003	Francois Cottard	06028.0036-00	9625

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EXAMINER

ELHILO, EISA B

ART UNIT PAPER NUMBER

1751

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/728,888

Applicant(s)

COTTARD ET AL.

Examiner

Eisa B. Elhilo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/21/2005.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1 This action is responsive to the amendment filed on May 19, 2006.

2 The rejection of claims 1-45, 47,55-56 and 59-83 under 35 U.S.C. 103(a) as being  
unpatentable over Cottard et al. (US 2001/0023514 A1) in view of Grollier et al. (US 4,357,141),  
is maintained for the reasons set forth in the previous office action that mailed on November 21,  
2005.

3 The rejection of claims 46, 48-54 and 57-58 under 35 U.S.C. 103(a) as being  
unpatentable over Cottard et al. (US 2001/0023514 A1) in view of Grollier et al. (US 4,357,141)  
and further in view of Laurent et al. (US 2002/0046431 A1), is maintained for the reasons set  
forth in the previous office action that mailed on November 21, 2005.

### ***Response to Applicant's Arguments***

4 Applicant's arguments filed 5/19/2006 have been fully considered but they are not  
persuasive.

With respect to the rejection of claims 1-45, 47,55-56 and 59-83 under 35 U.S.C. 103(a)  
as being unpatentable over Cottard et al. (US' 514 A1) in view of Grollier et al. (US' 141),  
Applicant argues that the office failed to establish a prima facie case of obviousness.

The examiner respectfully disagrees with the above argument because Cottard et al. (US'  
514 A1) as a primary reference teaches and suggests the use of fatty amides in the oxidizing  
composition (see page 18, paragraph, 0370) and wherein the oxidizing composition is mixed or  
combined with a dyeing composition to form an oxidation dyeing composition that applied to the  
hair (see page 19, paragraphs, 0371-0372). Grollier et al. (US' 141) as a secondary reference  
clearly teaches the claimed species oleic diethanolamide and stearic monoethanolamide as the

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conventional adjutants that used in an oxidative dyeing compositions (see col. 6, lines 67-68 and 7, lines 24-26). Therefore, there is a clear suggestion and sufficient modification to one having ordinary skill in the art to be motivated to incorporate the fatty amides as the conventional adjuvant as taught by Grollier et al. (US' 141) in the dyeing composition of Cottard et al. (US' 514 A1) to arrive at the claimed invention.

With respect to the rejection of claims 48-54 under 35 U.S.C. 103(a) as being unpatentable over Cottard et al. (US' 514 A1) in view of Grollier et al. (US' 141) and further in view of Laurent et al. (US' 431 A1), Applicant argues that claims 48-54 are not directed towards a cationic polyurethane as the office alleges.

The examiner's position is that Laurent et al. (US' 431 A1) as a secondary reference clearly teaches and discloses the cationic polyvinylactams of a formula (Ib) and (IIb) which are similar to the claimed formulae (Va) and (Vb) as claimed in claim 49 (see page 6, paragraph, 0157), wherein the monomer chosen from dimethylaminopropyl-methacrylamide and acrylamidopropyltrimethylammonium chloride as claimed in claims 50-51 (see page 7, paragraph, 0191 and page 18, paragraph, 0402), wherein the monomer chosen from acrylic acid, methacrylic acid as claimed in claim 52 (see page 8, paragraph, 0208) and wherein the monomer chosen from (C10-C30)alkyl acrylates as claimed 53-54 (see page 8, paragraph, 0211). Therefore, Laurent et al. (US' 431 A1) teaches all the limitations of the claims.

5        **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read "Eisa Elhilo". The signature is fluid and cursive, with the first name "Eisa" and last name "Elhilo" clearly distinguishable.

Eisa Elhilo  
Primary Examiner  
Art Unit 1751

July 10, 2006